

IN THE SENATE

SENATE BILL NO. 1278

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1  
2 RELATING TO REAL PROPERTY; AMENDING CHAPTER 6, TITLE 55, IDAHO CODE, BY THE  
3 ADDITION OF A NEW SECTION 55-616, IDAHO CODE, TO PROVIDE THAT CERTAIN  
4 APPURTENANT WATER RIGHTS AND WATER ENTITLEMENTS AND OBLIGATIONS SHALL  
5 PASS WITH THE TRANSFER OF REAL PROPERTY; AND DECLARING AN EMERGENCY AND  
6 PROVIDING AN EFFECTIVE DATE.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 6, Title 55, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 55-616, Idaho Code, and to read as follows:

11 55-616. APPURTENANT WATER RIGHTS AND WATER ENTITLEMENTS AND OBLIGA-  
12 TIONS PASS WITH PROPERTY. (1) A transfer of real property passes appurtenant  
13 water rights decreed by court order pursuant to chapter 14, title 42, Idaho  
14 Code, permitted or licensed by the department of water resources pursuant to  
15 chapter 2, title 42, Idaho Code, or established by the constitutional method  
16 of appropriation, and that are owned by the seller and are not reserved by the  
17 seller in the instrument of conveyance.

18 (2) A transfer of real property included in an irrigation district that  
19 operates pursuant to title 43, Idaho Code, to which the district has appor-  
20 tioned the right to receive water from the district's water rights, passes  
21 the statutory rights and obligations of the property relative to the dis-  
22 trict's distribution of water and assessments.

23 (3) A transfer of real property included in a city irrigation system  
24 that operates pursuant to chapter 18, title 50, Idaho Code, to which the city  
25 has apportioned the right to receive water from the city's water rights,  
26 passes the statutory rights and obligations of the property relative to the  
27 distribution of water and assessments.

28 (4) A transfer of real property included in a ground water district  
29 that operates pursuant to chapter 52, title 42, Idaho Code, to which the  
30 district has levied assessments or apportioned mitigation plan obligations,  
31 passes the statutory rights and obligations of the property relative to such  
32 assessments and obligations.

33 (5) A transfer of real property that is entitled to receive water from  
34 the water rights of a canal company, ditch company, association, or other wa-  
35 ter delivery entity, passes the rights and obligations of the property rel-  
36 ative to the entity's distribution of water and assessments, subject to the  
37 bylaws of the water delivery entity.

38 (6) A transfer of real property does not pass water rights or water en-  
39 titlements and obligations that are not appurtenant to the real property.

1           SECTION 2. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after  
3 July 1, 2022.